

Conversely, respondent and its insurance carrier contend that this Board lacks jurisdiction to review the Order as it is a decision denying medical benefits. In the alternative, respondent and its insurance carrier argue that claimant failed to prove that his left upper extremity problems are related to the April 2001 accident as his symptoms developed approximately eight or nine months after the accident and at least four months after he left respondent's employment. Accordingly, they request the Board either to dismiss this appeal or to affirm the Order.

The only issues before the Board on this appeal are:

1. Does the Board have jurisdiction to review the June 18, 2003 Order Denying Medical Treatment?
2. If so, did claimant sustain injury to his left arm as the natural and direct result of the April 2001 work-related accident?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date and after considering the parties' arguments, the Board finds and concludes:

**1. Does the Board have jurisdiction to review the June 18, 2003 Order Denying Medical Treatment?**

The Board has jurisdiction to review the June 18, 2003 Order. The record indicates that respondent and its insurance carrier did not dispute that claimant needed medical treatment for his left upper extremity. Instead, the issue presented to the Judge was whether claimant's left upper extremity problems were the natural and direct consequence of the right upper extremity injury that claimant sustained on April 9, 2001, when he received an electrical shock while working on an appliance.

The Board concludes that the Judge denied claimant's request for benefits on the basis that claimant had failed to prove that the left upper extremity injury was related to the April 2001 accident. In future preliminary hearing orders, the Judge is requested to set forth the basis for denying benefits.

**2. Did claimant sustain injury to his left upper extremity as a natural and direct consequence of the April 9, 2001 accident?**

On April 9, 2001, claimant received an electrical shock when he was working on an appliance for respondent. The parties agree that claimant's accident arose out of and in the course of employment with respondent. Moreover, respondent and its insurance carrier do not contest that claimant injured his right upper extremity in that accident as claimant immediately experienced and reported right upper extremity symptoms and later underwent right carpal tunnel release surgery. But respondent and its insurance carrier contest whether the left upper extremity symptoms that claimant later developed are related to that accident.

Shortly after the April 2001 accident, claimant began receiving medical treatment from Dr. Guillermo Garcia, who diagnosed right carpal tunnel syndrome, right Guyon's

canal syndrome and chronic synovitis. In August 2001, the doctor operated on claimant's right wrist releasing both the carpal tunnel and Guyon's canal and performing a flexor tendon synovectomy. Following that surgery claimant continued to have pain in his right wrist. Consequently, in late September 2001 Dr. Garcia performed an arthrogram, which revealed navicular, lunate and triangular fibrocartilage tears in the right wrist. The arthrogram also revealed a space between the navicular and the lunate and possibly rotator subluxation of the navicular. Dr. Garcia recommended a right wrist arthrodesis.

Claimant did not undergo the arthrodesis and he wanted a second opinion. Accordingly, in late January 2002, claimant saw Dr. George L. Lucas. Although Dr. Lucas believed the fusion might be needed in the future, the doctor recommended continued conservative treatment of the right wrist, including splints, exercises, anti-inflammatory medications and possible injections. And in early April 2002, claimant saw Dr. Pedro A. Murati, who concluded that claimant would need a future right wrist fusion.

According to claimant, during the winter following the April 2001 accident he began noticing left wrist symptoms. Claimant, however, did not inform either Dr. Lucas or Dr. Murati of the left wrist symptoms when he saw them in January and April 2002, respectively. Dr. Garcia's office notes indicate that in July 2002 claimant told the doctor about left wrist pain and discomfort. Following a series of tests including an August 2002 left wrist arthrogram, Dr. Garcia diagnosed left carpal tunnel syndrome, left Guyon's canal syndrome, a tear of the triangular fiber cartilage in the left wrist and a tear in the intercarpal ligament between the lunate and triquetrum. Claimant testified that Dr. Garcia advised him that his injuries were the result of the April 2001 electrical shock.

From approximately May 2001 until the August 14, 2001 right wrist surgery, claimant continued working for respondent using his non-dominant left hand more as his right hand and wrist were painful. Respondent declined to accept claimant back to work following the right wrist surgery. When claimant testified in September 2002, the only work that he had performed since leaving respondent's employment was part-time work selling horse trailers for his nephew.

At the request of respondent and its insurance carrier, in October 2002 Dr. Philip R. Mills examined claimant. Dr. Mills diagnosed bilateral carpal tunnel syndrome, bilateral triangular fibrocartilage tear and bilateral basal joint arthrosis. In his October 30, 2002 report, Dr. Mills stated that he was unable to relate claimant's left upper extremity problems to the electrical shock. The doctor did not comment upon whether claimant's left upper extremity complaints were caused by or contributed to by using the left upper extremity more in order to protect the right upper extremity.

In February 2003, at Judge Fuller's request, Dr. C. Reiff Brown examined claimant. Dr. Brown testified that he believed claimant's left upper extremity problems were caused

by both the electrical shock and by using the left upper extremity to compensate for the right upper extremity, in which the symptoms had become severe before the right wrist surgery. Dr. Brown testified, in part:

I think I will have to say that indirectly the electric shock was the cause of it. It appears to me that he had some injury to the left arm fairly soon after this electric shock because he said he did. I have to assume then that the carpal tunnel syndrome started developing in the left side fairly soon after the injury and probably was accelerated by overusing the left arm and compensating for the right which had become severe prior to surgery or he wouldn't have had the surgery. After the surgery, for a month or six weeks, he would have had minimal use of the right arm. So during that period of time, I would expect that the overuse and compensation for the right upper extremity would have caused the symptoms.<sup>1</sup>

Dr. Brown did not believe that the minimal computer work that claimant performed in his part-time sales position was a significant factor in claimant's left upper extremity complaints.

The Board finds that it is more probably true than not that claimant's left upper extremity injuries are directly related to the April 9, 2001 accident. Persuaded by Dr. Brown's testimony, the Board finds that the electrical shock probably caused a severe contraction of the arm muscles, which, in turn, tore the intercarpal and triangular ligaments and precipitated the onset of the bilateral carpal tunnel syndrome. Moreover, the left carpal tunnel syndrome and Guyon's canal syndrome were more probably than not caused by claimant using the left upper extremity to compensate and protect the more symptomatic right upper extremity.

Based upon the above, the June 18, 2003 Order Denying Medical Treatment should be reversed as claimant's left upper extremity injuries are the result of an accident that arose out of and in the course of employment with respondent.

**WHEREFORE**, the Board reverses the June 18, 2003 Order Denying Medical Treatment and holds that claimant is entitled to receive workers compensation medical benefits for the left upper extremity.

**IT IS SO ORDERED.**

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<sup>1</sup> Brown Depo. at 20.

Dated this \_\_\_\_ day of August 2003.

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BOARD MEMBER

c: Lawrence M. Gurney, Attorney for Claimant  
Nathan Burghart, Attorney for Respondent and its Insurance Carrier  
Pamela J. Fuller, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director